

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

CRP.No. 1126 of 2004

OP(ELE.)127/2000 of ADDL.DISTRICT COURT, THRISSUR

REVN. PETITIONER: RESPONDENT:

THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, K.S.E.BOARD,
THIRUVANANTHAPURAM.

BY ADV. SRI. C.K.KARUNAKARAN, SC, KSEB

RESPONDENTS: PETITIONER:

P.P.JOSE, S/O. POULOSE,
PALLIKUNNATH (H), P.O. MANALUR, THRISSUR DIST.

BY ADV. SRI.DILIP J. AKKARA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

I.A.NO.2734/2004 IN C.R.P.NO.1126/2004

DISMISSED

30/11/2007

SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

K.T.SANKARAN, J.

C.R.P. NO. 1126 OF 2004 G

Dated this the 30th day of November, 2007

ORDER

The Kerala State Electricity Board challenges the order dated 15.11.2003 in O.P.(Ele.)No.127 of 2000, on the file of the Court of the Additional District Judge, Thrissur. For the purpose of drawing 110 KV High Tension line (Kunnamkulam-Kandassankadavu line), 40 yielding coconut trees and two mango trees were cut and removed. For the trees cut, a sum of Rs.12,124/- was fixed as compensation. The amount was received by the respondent under protest. He filed the Original Petition before the court below under Sections 10 and 15 of the Indian Telegraph Act and Section 51 of the Indian Electricity Act, seeking enhanced compensation. The respondent also stated that he is entitled to compensation on account of the diminution of land value in respect of 40 cents of land which is affected by the drawal of the line. A sum of Rs.2,21,000/- was claimed as enhanced compensation.

2. The respondent relied on the Commissioner's report in O.S.No.579 of 1995, prepared by PW1 Advocate Commissioner, wherein the Commissioner has reported that the average annual yield per coconut tree would be 150-200 nuts. The Commissioner also suggested a value of Rs.3.50/- per nut. According to the Commissioner, an extent of 40 cents of land would be affected by the drawal of the electric line.

3. The court below did not rely on the Commissioner's report either in respect of the value of coconut or in respect of the extent of land affected by the drawal of the electric line. The court below relied on Ext.B1 valuation statement

and Ext.B2 mahazar prepared by the Electricity Board and considering the admitted and proved facts, came to the conclusion that the amount awarded as compensation is very low. Taking into account the principles laid down in **Kumba Amma** v. **K.S.E.B** (2000 (1) KLT 542 (F.B.)) and considering the facts and circumstances of the case, the court below held that the respondent herein is entitled to a sum of Rs.11,904/- as enhanced compensation on account of the trees cut. The court below though rejected the Commissioner's report, wherein it was stated that an extent of 45 cents of land would be affected by the drawal of line, held that an extent of 20 cents would be affected. The land value was fixed at a very low amount of Rs.8,000/- per cent and calculating the diminution at 20%, the compensation for diminution of land value was fixed at a sum of Rs.20,000/-. It cannot be said that the amount awarded by the court below is on the higher side. I am of the view that the amount awarded by the court below is low.

There is no merit in the Civil Revision Petition filed by the Electricity Board. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

(K.T.SANKARAN)
Judge

ahz/